

TRANSPORTATION DEPARTMENT[761]**Notice of Intended Action****Proposing rule making related to final-stage manufacturers, motor vehicle dealer books and records, and security interest cancellation notations on certificate of title and providing an opportunity for public comment**

The Department of Transportation hereby proposes to amend Chapter 400, “Vehicle Registration and Certificate of Title,” and Chapter 425, “Motor Vehicle and Travel Trailer Dealers, Manufacturers, Distributors and Wholesalers,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 322.13.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321.1, 321.50, 321.63, 322.2 and 322.3; 2018 Iowa Acts, Senate File 2325, section 1; 2018 Iowa Acts, Senate File 2293, sections 1 and 3; and 2018 Iowa Acts, Senate File 2262, sections 1 to 5.

Purpose and Summary

This proposed rule making amends Chapters 400 and 425 to align the rules with Iowa Code sections 321.1, 321.50, 321.63, 322.2 and 322.3 as amended by 2018 Iowa Acts, Senate File 2325, section 1; 2018 Iowa Acts, Senate File 2293, sections 1 and 3; and 2018 Iowa Acts, Senate File 2262, sections 1 to 5. The specific Iowa Acts referenced amended Iowa Code sections related to notation of cancellation of a security interest on a motor vehicle title, the location of motor vehicle dealer books and records, and the ability of a final-stage motor vehicle manufacturer to sell a completed multi-stage manufactured vehicle to a retail buyer. The following paragraphs describe the proposed amendments in more detail.

Final-stage manufacturers: The proposed amendments conform the rules to 2018 Iowa Acts, Senate File 2262, sections 1 to 5, which changed the definition of “manufacturer” to include a final-stage motor vehicle manufacturer, and defines “final-stage manufacturer” to mean a person who performs such manufacturing operations on an incomplete motor vehicle that it becomes a completed motor vehicle. Prior to the legislation, a final-stage manufacturer was prohibited from holding a motor vehicle dealer’s license and thus could not sell a multi-stage manufactured vehicle directly to a retail buyer. The legislation allows a final-stage manufacturer holding either a new or used motor vehicle dealer license to assign an incomplete motor vehicle manufacturer’s certificate of origin to a retail buyer for purposes of issuance of a certificate of title by a county treasurer as a new motor vehicle, which may have the same make as the incomplete motor vehicle. The rules implement the legislation by addressing the eligibility and application requirements for a final-stage manufacturer motor vehicle dealer license. Specifically, the applicant for a final-stage manufacturer’s motor vehicle dealer license must meet the definition of a final-stage manufacturer in the Iowa Code, must meet the final-stage manufacturer certification responsibilities under federal regulation in 49 CFR Section 567.5, and must already be licensed as a manufacturer under Iowa Code chapter 322 and 761—Chapter 425. The applicant must also follow the same standards and meet the same criteria for a motor vehicle dealer license as already established in rule 761—425.10(322).

Motor vehicle dealer books and records: The proposed amendments add a new rule to incorporate the requirements of Iowa Code sections 321.1 and 321.63 as enacted by 2018 Iowa Acts, Senate File 2293, sections 1 and 3, for motor vehicle dealer books and records when the motor vehicle dealer has more than one licensed location. The rule specifies that a motor vehicle dealer may keep the dealer’s collective business records together at any of the dealer’s licensed locations, but the records must be stored in a manner so the records are distinguishable to each licensee and may be accurately identified

in any audit proceeding. Also, the dealer must notify the Department when the dealer intends to move business records to another licensed location, which complies with the statutory requirement to notify the Department of the records location.

Security interest cancellation title notations: The proposed amendments also incorporate the requirements of Iowa Code section 321.50, as enacted by 2018 Iowa Acts, Senate File 2325, section 1, allowing for the cancellation of a security interest to be submitted either on the title itself or on a separate notarized statement from the lienholder. This provision is a favorable alternative to the previous process, which only allowed the security interest cancellation to be noted on the title and did not accommodate the common practice of banks or lienholders sending a notarized letter canceling the security interest along with the unsigned title.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 5, 2019. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Strategic Communications and Policy
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

A public hearing to hear requested oral presentations will be held as follows:

February 7, 2019
1 p.m.

Department of Transportation
Motor Vehicle Division
6310 SE Convenience Boulevard
Ankeny, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George, the Department's rules administrator, and advise of specific needs.

The public hearing will be canceled without further notice if no oral presentation is requested.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** definition of "Final-stage manufacturer" in rule **761—400.1(321)**:

"Final-stage manufacturer" means as defined in Iowa Code section 322.2.

ITEM 2. Amend rule **761—400.1(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.1, 321.8, 321.20, 321.23, 321.24, 321.40, 321.45, 321.50, 321.117, 321.123, 321.134, ~~and~~ 321.157 and 322.2.

ITEM 3. Amend subrule 400.4(1) as follows:

400.4(1) New vehicle. If application is made for a new vehicle, a manufacturer's certificate of origin, properly assigned to the applicant, shall be submitted. A manufacturer's certificate of origin shall not be accepted if the assignment to the applicant is made by any person other than the manufacturer, importer, or distributor, or a licensed motor vehicle dealer franchised to sell that line-make line-make of vehicle, or a final-stage manufacturer motor vehicle dealer licensed under rule 761—425.11(322).

a. The first person, including a dealer not franchised to sell that ~~line-make line-make~~ of vehicle, who is assigned the manufacturer's certificate of origin shall obtain a certificate of title and register the vehicle.

b. No change.

c. If a 1980 or subsequent model year vehicle is manufactured by a person other than the original manufacturer, both the original manufacturer's certificate of origin and the ~~final~~ final-stage manufacturer's certificate of origin shall be submitted if the vehicle's original line-make is changed by the final-stage manufacturer. All assignments or reassignments of ownership of the vehicle shall be made on the ~~final~~ final-stage manufacturer's certificate of origin. The face of the original manufacturer's certificate of origin shall be stamped in bold type with the statement: "~~Final~~ Final-stage manufacturer's MCO has been issued on this vehicle." The original manufacturer's vehicle identification number shall be listed on the ~~final~~ final-stage manufacturer's certificate of origin.

d. If a final-stage manufacturer is a motor vehicle dealer licensed under rule 761—425.11(322), the final-stage manufacturer may reassign the original manufacturer's certificate of origin to the retail buyer.

ITEM 4. Amend rule **761—400.4(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.20, 321.23, 321.24, 321.30, 321.31, 321.45 to 321.50, ~~and~~ 321.67 and 322.3.

ITEM 5. Amend subrule 400.8(2) as follows:

400.8(2) The secured party may also note the cancellation in a statement written on the secured party's letterhead if the statement is notarized and contains the following information: county that issued the title; title number; security interest number; vehicle identification number; vehicle owner's name; secured party's name, street address, city, state and ZIP code; date the security interest was canceled; and signature of an authorized representative of the secured party.

ITEM 6. Adopt the following **new** paragraph **425.10(3)“c”**:

c. Nothing in this subrule shall be construed to require a franchise agreement from a final-stage manufacturer applying for a motor vehicle dealer license under rule 761—425.11(322).

ITEM 7. Adopt the following new rule 761—425.11(322):

761—425.11(322) Motor vehicle dealer licensing for final-stage manufacturers.

425.11(1) *Eligibility.* A final-stage manufacturer may be licensed as a motor vehicle dealer if the final-stage manufacturer:

- a.* Meets the definition of “final-stage manufacturer” in Iowa Code section 322.2.
- b.* Meets the requirements of a final-stage manufacturer in 49 CFR Section 567.5.
- c.* Is licensed as a manufacturer under Iowa Code chapter 322 and this chapter.

425.11(2) *Application.* A final-stage manufacturer shall apply for a motor vehicle dealer license in the manner described in rule 761—425.10(322) and shall certify that the final-stage manufacturer meets the eligibility requirements under subrule 425.11(1).

This rule is intended to implement Iowa Code sections 322.2 and 322.3.

ITEM 8. Amend rule **761—425.12(322)**, catchwords, as follows:

761—425.12(322) Motor vehicle dealer’s principal place of business.

ITEM 9. Adopt the following new rule 761—425.13(321,322):

761—425.13(321,322) Business records of a motor vehicle dealer with multiple licenses.

425.13(1) *Applicability.* A motor vehicle dealer licensed under Iowa Code chapter 322 and this chapter who holds more than one motor vehicle dealer license may maintain the dealer’s collective business records together at any of the dealer’s licensed locations.

425.13(2) *Separation of records.* Business records of licensed motor vehicle dealers kept at a single licensed location under this rule shall be stored separately and distinctly, in a manner distinguishable to each licensee, and shall not be commingled.

425.13(3) *Notification to the department.* A motor vehicle dealer shall notify the office of vehicle and motor carrier services in writing no fewer than ten days before moving the dealer’s business records to another licensed location.

This rule is intended to implement Iowa Code sections 321.63 and 322.2 to 322.15.